

MINUTES

ALCOHOL AND TOBACCO COMMISSION

OCTOBER 20, 2009

CALL TO ORDER/NOTING OF QUORUM

Chairman Snow called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson, Commissioner Guthrie and Commissioner Sturtz. Superintendent Huskey and Executive Secretary Dunsmore were also in attendance.

Marc Carmichael, Debbie Scott, Mark Webb, Jeff McKean, Cindy Tooman, Matt Price, Nicole Upano, Trevor Vance and John Barnett were present as observers.

DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the October 6, 2009 meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PAD FORMS – Vice Chairman Johnson moved to approve the parties agreed disposition forms that were submitted for the October 20, 2009 meeting. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL40-23860 WAL-MART STORES EAST LP – Hearing Judge Dunsmore stated an appeal hearing was conducted regarding the above-referenced application. He now submits his Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairman Johnson moved to uphold the hearing judge's recommendation and approve the new permit. Motion seconded by Commissioner Guthrie and it was unanimously approved.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

Four hundred thirty-eight (438) renewals approved, forty-seven (47) new and/or transfer permits approved, eight (8) permits approved for catering, four (4) permits approved for first year escrow, four (4) permits approved for second year escrow, one (1) permit approved for third year escrow, and three (3) permits approved for fifth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Sturtz and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR02-03764 SOUTHSIDE PROPERTIES, LLC, D/B/A FIRST AND LAST TAVERN – Commissioner Guthrie noted this is a type 210 renewal application with the local board voting three (3) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RC71-13592 AMERICAN LEGION POST 50 – Commissioner Guthrie noted this renewal originally came to the Commission as a non-vote, due to the permittee not showing at the local board as required. The Commission denied the renewal at the October 6, 2009 meeting. Subsequently, the permittee did finally appear before the local board and the local board recommended approval of the renewal.

Commissioner Guthrie moved to reverse the Commission's denial of this renewal and approve the permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

RR49-25957 HAVANA CUBAN CUISINE & SPIRITS - Commissioner Guthrie noted this was tabled at the last meeting. The local board forwarded this application to the Commission due to the applicant not providing the required paperwork necessary to hold the permit.

Commissioner Guthrie stated he spoke with the Excise officer who sits on the board. The officer requests the Commission remand this application to the local board

Commissioner Guthrie moved to remand this application to the local board. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL29-26190 CRYSTAL FLASH PETROLEUM, LLC – Commissioner Guthrie noted this is a new type 115 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

Chairman Snow mentioned that he had some phone conversations and a meeting with Jeff McKean and Matt Price regarding this matter and wanted to publicly commend them both on their professionalism in this situation.

DL43-26229 FREEDOM OIL, LLC – Commissioner Guthrie noted this is a new type 115 application with the local board voting three (3) to one (1) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL57-26258 KTKSB ENTERPRISES III, LLC, D/B/A LOW BOB'S – Commissioner Guthrie noted this is a new type 115 application with the local board voting two (2) to two (2).

Commissioner Guthrie stated the local board members recommending denial of the permit feel this applicant doesn't take selling tobacco and alcohol seriously and finds signs inside the location to be offensive.

Commissioner Guthrie moved to approve the new permit. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

RR92-26129 BLACK BEARD, INC., D/B/A TAVERN ON THE LAKE – Commissioner Guthrie noted this is a new type 209 application with the local board voting three (3) to one (1) to approve.

Commissioner Guthrie moved to uphold the local board and approve the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL50-26235 FREEDOM OIL, LLC – Commissioner Guthrie noted this is a new type 115 with the local board voting three (3) to one (1) to disapprove.

Commissioner Guthrie stated evidence was submitted at the local board meeting to support a recommendation to deny the permit.

Commissioner Guthrie moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR29-26206 & 26207 WOODRUM ENTERPRISES, LLC, D/B/A STUARTS STEAK HOUSE – Commissioner Guthrie noted this is a new type 112 application and new type 210-1 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board and approve the new permits. Motion seconded by Vice Chairman Johnson and it was unanimously approved.

INACTIVE FILES

INACTIVE FILES – Vice Chairman Johnson moved to make five (5) permits inactive. Three (3) permits are not subject to auction and two (2) permits are subject to auction. Motion seconded by Commissioner Guthrie and it was unanimously approved.

DL21-10755 TRI-COUNTY SPIRITS, INC. – Commissioner Guthrie stated this permittee was scheduled to attend this meeting regarding revocation of this permit. No one for the permittee has appeared.

Commissioner Guthrie moved to revoke this permit and make it inactive. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR64-22910 PHILIP J. REINER – Commissioner Guthrie stated the permittee is here and is currently speaking with Indiana Department of Revenue to clear the tax protest.

Commissioner Guthrie moved to continue this revocation hearing to November 3, 2009, to check the tax protest situation and whether the renewals are ready to be filed. Motion seconded by Commissioner Sturtz and it was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

No Announcements.

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Motion seconded by Commissioner Guthrie and it was unanimously approved.

Approved this _____ day of _____, 2009.

P. TOM SNOW, CHAIRMAN

DAVID JOHNSON, VICE CHAIR

DALE STURTZ, COMMISSIONER

FRANK GUTHRIE, COMMISSIONER